

RECODIFICATION OF NATURAL RESOURCES**CODE - CHAPTER 4**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill renumbers and amends provisions related to parks and recreation.

Highlighted Provisions:

This bill:

- ▶ renumbers and amends Title 63, Chapter 11, Parks and Recreation;
- ▶ repeals sections that are no longer applicable; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-22-12, as last amended by Laws of Utah 2007, Chapter 136

53-13-103, as last amended by Laws of Utah 2007, Chapter 329

63C-11-102, as enacted by Laws of Utah 2007, Chapter 361

67-19-27, as last amended by Laws of Utah 2003, Chapter 123

72-11-204, as renumbered and amended by Laws of Utah 1999, Chapter 195

73-3-30, as enacted by Laws of Utah 2008, Chapter 311

73-10e-1, as last amended by Laws of Utah 1986, Chapter 167

76-6-206.2, as enacted by Laws of Utah 2004, Chapter 103

ENACTS:

79-4-101, Utah Code Annotated 1953

79-4-102, Utah Code Annotated 1953

79-4-304, Utah Code Annotated 1953

32 **79-4-801**, Utah Code Annotated 1953

33 RENUMBERS AND AMENDS:

34 **79-4-201**, (Renumbered from 63-11-17.1, as last amended by Laws of Utah 1969,
35 Chapter 198)

36 **79-4-202**, (Renumbered from 63-11-18, as last amended by Laws of Utah 1983,
37 Chapter 318)

38 **79-4-203**, (Renumbered from 63-11-17, as last amended by Laws of Utah 2008,
39 Chapters 3, 201, and 382)

40 **79-4-204**, (Renumbered from 63-11-19, as last amended by Laws of Utah 1969,
41 Chapter 198)

42 **79-4-205**, (Renumbered from 63-11-20, as repealed and reenacted by Laws of Utah
43 1993, Chapter 247)

44 **79-4-206**, (Renumbered from 63-11-68, as enacted by Laws of Utah 2008, Chapter 285)

45 **79-4-301**, (Renumbered from 63-11-12, as last amended by Laws of Utah 2008,
46 Chapter 382)

47 **79-4-302**, (Renumbered from 63-11-14, as last amended by Laws of Utah 2002,
48 Chapter 176)

49 **79-4-303**, (Renumbered from 63-11-16, as enacted by Laws of Utah 1967, Chapter 176)

50 **79-4-305**, (Renumbered from 63-11-13, as last amended by Laws of Utah 1983,
51 Chapter 318)

52 **79-4-401**, (Renumbered from 63-11-21, as last amended by Laws of Utah 1983,
53 Chapter 318)

54 **79-4-402**, (Renumbered from 63-11-66, as last amended by Laws of Utah 2004,
55 Chapter 103)

56 **79-4-403**, (Renumbered from 63-11-19.5, as last amended by Laws of Utah 2000,
57 Chapter 70)

58 **79-4-404**, (Renumbered from 63-11-67, as enacted by Laws of Utah 2008, Chapter 201)

59 **79-4-501**, (Renumbered from 63-11-17.2, as last amended by Laws of Utah 1998,
60 Chapter 282)

61 **79-4-502**, (Renumbered from 63-11-17.3, as last amended by Laws of Utah 1997,
62 Chapter 315)

- 63 **79-4-601**, (Renumbered from 63-11-3, as last amended by Laws of Utah 1969, Chapter
64 198)
65 **79-4-602**, (Renumbered from 63-11-1, as last amended by Laws of Utah 2007, Chapter
66 306)
67 **79-4-603**, (Renumbered from 63-11-54.5, as last amended by Laws of Utah 2000,
68 Chapter 20)
69 **79-4-604**, (Renumbered from 63-11-54, as enacted by Laws of Utah 1973, Chapter 161)
70 **79-4-605**, (Renumbered from 63-11-55, as enacted by Laws of Utah 1973, Chapter 161)
71 **79-4-701**, (Renumbered from 63-11-3.1, as last amended by Laws of Utah 2000,
72 Chapter 300)
73 **79-4-702**, (Renumbered from 63-11-3.2, as enacted by Laws of Utah 1998, Chapter
74 225)
75 **79-4-703**, (Renumbered from 63-11-3.3, as enacted by Laws of Utah 1998, Chapter
76 225)
77 **79-4-704**, (Renumbered from 63-11-10.2, as last amended by Laws of Utah 1969,
78 Chapter 198)
79 **79-4-705**, (Renumbered from 63-11-10.3, as last amended by Laws of Utah 1969,
80 Chapter 198)
81 **79-4-802**, (Renumbered from 63-11-17.5, as last amended by Laws of Utah 1993,
82 Chapter 227)
83 **79-4-803**, (Renumbered from 63-11-17.7, as last amended by Laws of Utah 1999,
84 Chapter 213)
85 **79-4-804**, (Renumbered from 63-11-17.8, as last amended by Laws of Utah 2000,
86 Chapter 20)
87 **79-4-901**, (Renumbered from 63-11-63, as enacted by Laws of Utah 1977, Chapter 182)
88 **79-4-1001**, (Renumbered from 63-11-19.2, as last amended by Laws of Utah 2003,
89 Chapter 336)
90 REPEALS:
91 **63-11-16.5**, as last amended by Laws of Utah 1986, Chapter 167
92 **63-11-19.1**, as last amended by Laws of Utah 1997, Chapter 276

93 **63-11-19.6**, as last amended by Laws of Utah 2000, Chapter 70
94 **63-11-33**, as last amended by Laws of Utah 1987, Chapter 167
95 **63-11-34**, as enacted by Laws of Utah 1969, Chapter 139
96 **63-11-35**, as enacted by Laws of Utah 1969, Chapter 139
97 **63-11-36**, as enacted by Laws of Utah 1969, Chapter 139
98 **63-11-56**, as enacted by Laws of Utah 1974, Chapter 29
99 **63-11-62**, as enacted by Laws of Utah 1977, Chapter 182

100

101 *Be it enacted by the Legislature of the state of Utah:*

102 Section 1. Section **41-22-12** is amended to read:

103 **41-22-12. Restrictions on use of public lands.**

104 (1) Except as provided in [~~Section 63-11-17~~] Sections 79-4-203 and 79-4-304, federal
105 agencies are encouraged and agencies of the state and its subdivisions shall pursue
106 opportunities to open public land to responsible off-highway vehicle use.

107 (2) A person may not operate and an owner of an off-highway vehicle may not give
108 another person permission to operate an off-highway vehicle on any public land which is
109 closed to off-highway vehicles.

110 Section 2. Section **53-13-103** is amended to read:

111 **53-13-103. Law enforcement officer.**

112 (1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an
113 employee of a law enforcement agency that is part of or administered by the state or any of its
114 political subdivisions, and whose primary and principal duties consist of the prevention and
115 detection of crime and the enforcement of criminal statutes or ordinances of this state or any of
116 its political subdivisions.

117 (b) "Law enforcement officer" specifically includes the following:

118 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any
119 county, city, or town;

120 (ii) the commissioner of public safety and any member of the Department of Public
121 Safety certified as a peace officer;

122 (iii) all persons specified in Sections 23-20-1.5 and [~~63-11-17.2~~] 79-4-501;

123 (iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(vii) employees of the Department of Natural Resources designated as peace officers by law;

(viii) school district police officers as designated by the board of education for the school district;

(ix) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(x) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xi) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

(xii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiii) transit police officers designated under Section 17B-2a-823.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise his authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of

Corrections is regulated by Title 64, Chapter 13, Department of Corrections -- State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority, satisfactorily complete:

(a) the basic course at a certified law enforcement officer training academy or pass a certification examination as provided in Section 53-6-206, and be certified; and

(b) annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 3. Section **63C-11-102** is amended to read:

63C-11-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Sports Authority created by this chapter.

(2) "Division of Parks and Recreation" means the Division of Parks and Recreation created in Section ~~[63-11-17.1]~~ 79-4-201.

Section 4. Section **67-19-27** is amended to read:

67-19-27. Leave of absence with pay for disabled employees covered under other civil service systems.

(1) As used in this section:

(a) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) all persons specified in Sections 23-20-1.5 and ~~[63-11-17.2]~~ 79-4-501;

(C) investigators for the Motor Vehicle Enforcement Division;

(D) special agents or investigators employed by the attorney general;

(E) employees of the Department of Natural Resources designated as peace officers by law;

(F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the

commissioner of public safety and certified by the division; and

(G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(b) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) Each law enforcement officer, state correctional officer, operator license examiner, commercial license examiner, or Driver License Division hearing examiner who is injured in the course of employment shall be given a leave of absence with full pay during the period the employee is temporarily disabled.

(b) This compensation is in lieu of all other compensation provided by law except hospital and medical services that are provided by law.

(3) Each law enforcement officer or state correctional officer who is 100% disabled through a criminal act upon his person while in the lawful discharge of his duties, shall be given a leave of absence with full compensation until he retires or reaches the retirement age of 62 years.

Section 5. Section **72-11-204** is amended to read:

72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) (a) (i) Members who are not government employees may not receive any compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(3) Reimbursement shall be made from fees collected by the committee for services rendered by it.

(4) The Department of Transportation shall supply the committee with office accommodation, space, equipment, and secretarial assistance the executive director considers adequate for the committee.

(5) In addition to the functions, powers, duties, rights, and responsibilities granted to it under this chapter, the committee shall assume and have all of the functions, powers, duties, rights, and responsibilities of the Board of Parks and Recreation created in Section ~~[63-11-12]~~ 79-4-301 in relation to passenger ropeway systems pursuant to that chapter.

Section 6. Section **73-3-30** is amended to read:

73-3-30. Change application for an instream flow.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources, created in Section 23-14-1, or the Division of Parks and Recreation, created in Section ~~[63-11-17.1]~~ 79-4-201.

(b) "Fishing group" means an organization that:

- (i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and
- (ii) promotes fishing opportunities in the state.

(c) "Fixed time change" means a change in a water right's point of diversion, place of use, or purpose of use for a fixed period of time longer than one year but not longer than ten years.

(2) (a) A division may file a permanent or temporary change application, as provided by Section 73-3-3, for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, necessary within the state for:

- (i) the propagation of fish;
- (ii) public recreation; or
- (iii) the reasonable preservation or enhancement of the natural stream environment.

(b) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow, through funding provided for that purpose by legislative appropriation; or

- 248 (C) acquired by lease, agreement, gift, exchange, or contribution; or
249 (ii) an appurtenant water right acquired with the acquisition of real property by the
250 division.
- 251 (c) A division may:
- 252 (i) purchase a water right for the purposes provided in Subsection (2)(a) only with
253 funds specifically appropriated by the Legislature for water rights purchases; or
254 (ii) accept a donated water right without legislative approval.
- 255 (d) A division may not acquire water rights by eminent domain for an instream flow or
256 for any other purpose.
- 257 (3) (a) A fishing group may file a fixed time change application on a perfected,
258 consumptive water right for the purpose of providing water for an instream flow, within a
259 specified section of a natural or altered stream channel, to protect or restore habitat for three
260 native trout:
- 261 (i) the Bonneville cutthroat;
262 (ii) the Colorado River cutthroat; or
263 (iii) the Yellowstone cutthroat.
- 264 (b) Before filing an application authorized by Subsection (3)(a) to change a
265 shareholder's proportionate share of water, the water company shall submit the decision to
266 approve or deny the change request required by Subsection 73-3-3.5(3) to a vote of the
267 shareholders:
- 268 (i) in a manner outlined in the water company's articles of incorporation or bylaws;
269 (ii) at an annual or regular meeting described in Section 16-6a-701; or
270 (iii) at a special meeting convened under Section 16-6a-702.
- 271 (c) The specified section of the natural or altered stream channel for the instream flow
272 may not be further upstream than the water right's original point of diversion nor extend further
273 downstream than the next physical point of diversion made by another person.
- 274 (d) (i) The fishing group shall receive the Division of Wildlife Resources' director's
275 approval of the proposed change before filing the fixed time change application with the state
276 engineer.
- 277 (ii) The director may approve the proposed change if:
- 278 (A) the specified section of the stream channel is historic or current habitat for a specie

279 listed in Subsections (3)(a)(i) through (iii);

280 (B) the proposed purpose of use is consistent with an existing state management or
281 recovery plan for that specie; and

282 (C) the water right owner has received a certificate of inclusion from a person who has:

283 (I) entered into a programmatic Candidate Conservation Agreement with Assurances
284 with the United States Fish and Wildlife Service, as authorized by 16 U.S.C. Sec. 1531(a)(5)
285 and 1536(a)(1); and

286 (II) obtained an enhancement of survival permit, as authorized by 16 U.S.C. Sec.
287 1539(a)(1)(A).

288 (iii) The director may disapprove the proposed change if the proposed change would
289 not be in the public's interest.

290 (e) (i) In considering a fixed time change application, the state engineer shall follow the
291 same procedures as provided in this title for an application to appropriate water.

292 (ii) The rights and the duties of a fixed time change applicant are the same as provided
293 in this title for an applicant to appropriate water.

294 (f) A fishing group may refile a fixed time change application by filing a written
295 request with the state engineer no later than 60 days before the application expires.

296 (g) (i) The water right for which the state engineer has approved a fixed time change
297 application will automatically revert to the point of diversion and place and purpose of use that
298 existed before the approved fixed time change application when the fixed time change
299 application expires or is terminated.

300 (ii) The applicant shall give written notice to the state engineer and the lessor, if
301 applicable, if the applicant wishes to terminate a fixed time change application before the fixed
302 time change application expires.

303 (4) In addition to the requirements of Subsection 73-3-3(4)(b), an application
304 authorized by this section shall:

305 (a) set forth the legal description of the points on the stream channel between which the
306 instream flow will be provided by the change application; and

307 (b) include appropriate studies, reports, or other information required by the state
308 engineer demonstrating the necessity for the instream flow in the specified section of the
309 stream and the projected benefits to the public resulting from the change.

(5) (a) For a permanent change application or a fixed time change application filed according to this section, 60 days before the date on which proof of change for an instream flow is due, the state engineer shall notify the applicant by mail or by any form of communication through which receipt is verifiable of the date when proof of change is due.

(b) Before the date when proof of change is due, the applicant must either:

(i) file a verified statement with the state engineer that the instream flow uses have been perfected, setting forth:

(A) the legal description of the points on the stream channel between which the instream flow is provided;

(B) detailed measurements of the flow of water in second-feet changed;

(C) the period of use; and

(D) any additional information required by the state engineer; or

(ii) apply for a further extension of time as provided for in Section 73-3-12.

(c) (i) Upon acceptance of the verified statement required under Subsection (5)(b)(i), the state engineer shall issue a certificate of change for instream flow use in accordance with Section 73-3-17.

(ii) The certificate expires at the same time the fixed time change application expires.

(6) No person may appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow.

(7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

(8) A physical structure or physical diversion from the stream is not required to implement a change for instream flow use.

(9) This section does not allow enlargement of the water right that the applicant seeks to change.

(10) A change application authorized by this section may not impair a vested water right, including a water right used to generate hydroelectric power.

(11) The state engineer or the water commissioner shall distribute water under an approved or a certificated instream flow change application according to the change application's priority date relative to the other water rights located within the stream section specified in the change application for instream flow.

(12) An approved fixed time change application does not create a right of access across private property or allow any infringement of a private property right.

Section 7. Section **73-10e-1** is amended to read:

73-10e-1. Creation of Water Development and Flood Mitigation Reserve Account

-- Appropriation.

(1) There is created within the General Fund a restricted account known as the "Water Development and Flood Mitigation Reserve Account."

(2) There is appropriated for fiscal year 1984-85 \$55,000,000 from the General Fund and \$6,000,000 from certificates of participation to the Water Development and Flood Mitigation Reserve Account. This appropriation may not lapse and shall carry over to fiscal year 1985-86.

(3) There is appropriated for fiscal year 1985-86 \$35,000,000 from the General Fund to the Water Development and Flood Mitigation Reserve Account.

(4) There is appropriated for fiscal year 1984-85 \$4,050,000 from the Water Development and Flood Mitigation Reserve Account to the Division of Water Resources to use for all of the following:

(a) \$2,000,000 for final engineering studies for west desert pumping;

(b) \$500,000 for implementation of the State Water Plan, including, but not limited to, engineering studies on Bear River upstream diversion and storage projects and Hatch Town Reservoir;

(c) (i) \$750,000 to prepare final design reports and cost estimates for the following:

(A) Option A - No. Davis WWTP, West Kaysville, Centerville, Bard, West Bountiful, So. Davis No. WWTP, Phillips, Woods Cross, Jordan River WWTP, and the Salt Lake International Airport; and

(B) Option B - Antelope Island roadway dikes.

(ii) It is the intent of the Legislature to choose between Options A and B after the final design reports are completed. The final design reports for Option B shall be completed by consultants other than those who prepared the original report. The reports for both Options A and B shall clearly indicate the following for each alternative:

(A) estimated construction costs;

(B) estimated costs of operation and maintenance;

(C) estimated time necessary for completion;

(D) benefits with respect to flood control, tourism, recreation, long-term second use, and new access to Antelope Island and marsh lands; and

(E) impact on roads and esthetic land features during construction.

(d) \$250,000 to prepare final design reports for the following projects:
Corrine-WWTP, Plain City-WWTP, Perry-WWTP, and Little Mtn.-WWTP;

(e) \$500,000 to construct the South Shore project; and

(f) \$50,000 to reevaluate inter-island diking between South Shore, Antelope Island, Fremont Island, and Promontory Point.

(5) There is appropriated for fiscal year 1984-85 \$16,300,000 from the Water Development and Flood Mitigation Reserve Account to the Community Development/Disaster Relief Board for the following:

(a) \$4,000,000 to use as a match on diking projects built by the Army Corps of Engineers; and

(b) (i) \$12,300,000 to provide grants to appropriate governmental entities to increase the carrying capacity of the Jordan River. The grants shall be made without requiring matching funds from any other governmental entity and shall only be made if an agreement is entered into by the affected governmental entities resolving disputed issues of responsibility. It is the intent of the Legislature to consider the distribution of the 1/8% sales and use tax increase as the contribution from the affected governmental entities.

(ii) Any portion of the \$12,300,000 appropriated under Subsection (5) (b) (i) which is not used for the purposes described in that subsection shall be transferred to the Division of Parks and Recreation for the purposes described in Section ~~[63-11-17.5]~~ 79-4-802. After this money is transferred to the Division of Parks and Recreation, the money is nonlapsing. The money may not be used for any project specified by the Division of Parks and Recreation until the political subdivision having jurisdiction over the appropriate area contributes 50% of the costs of the project to the state. This contribution may be in the form of money, property, or services, or any combination of these, which can be used for the specified project.

(6) Interest accrued on the money appropriated into the Water Development and Flood Mitigation Reserve Account shall be deposited into the Water Resources Conservation and Development Fund as the interest accrues.

(7) All money not appropriated from the Water Development and Flood Mitigation Reserve Account by September 1, 1985, shall be deposited into the Water Resources Conservation and Development Fund.

Section 8. Section **76-6-206.2** is amended to read:

76-6-206.2. Criminal trespass on state park lands -- Penalties.

(1) For purposes of this section:

(a) "Authorization" means specific written permission by, or contractual agreement with, the Division of Parks and Recreation.

(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(c) "Division" means the Division of Parks and Recreation, [~~as referred to in Section 63-11-3.1~~] created in Section 79-4-201.

(d) "State park lands" means all lands administered by the division.

(2) A person is guilty of criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the person:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by someone with actual authority to act for the division, or by a law enforcement officer.

(3) A person is not guilty of criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(4) A violation of Subsection (2) is a class B misdemeanor.

(5) In addition to restitution, as provided in Section 76-3-201, a person who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three

434 times the value of:

435 (a) damages resulting from a violation of Subsection (2);

436 (b) the water, mineral, vegetation, improvement, or structure on state park lands that is
437 removed, destroyed, used, or consumed without authorization;

438 (c) the historical, prehistorical, archaeological, or paleontological resource on state
439 park lands that is removed, destroyed, used, or consumed without authorization; or

440 (d) the consideration which would have been charged by the division for unauthorized
441 use of the land and resources during the period of trespass.

442 (6) Civil damages under Subsection (5) may be collected in a separate action by the
443 division, and shall be deposited in the State Parks Fees Restricted Account as established in
444 Section ~~[63-11-66]~~ 79-4-402.

445 Section 9. Section **79-4-101** is enacted to read:

446 **CHAPTER 4. PARKS AND RECREATION**

447 **Part 1. General Provision**

448 **79-4-101. Title.**

449 This chapter is known as "Parks and Recreation."

450 Section 10. Section **79-4-102** is enacted to read:

451 **79-4-102. Definitions.**

452 (1) "Board" means the Board of Parks and Recreation.

453 (2) "Division" means Division of Parks and Recreation.

454 Section 11. Section **79-4-201**, which is renumbered from Section 63-11-17.1 is
455 renumbered and amended to read:

456 **Part 2. Division Creation and Administration**

457 ~~[63-11-17.1].~~ **79-4-201. Division of Parks and Recreation -- Creation --**

458 **Powers and authority.**

459 (1) There is created within the department the Division of Parks and Recreation[;
460 ~~which shall be within the Department of Natural Resources under].~~

461 (2) The division is under:

462 (a) the administration and general supervision of the executive director [of natural
463 ~~resources and under]; and~~

464 (b) the policy direction of the [Board of Parks and Recreation. The Division of Parks

~~and Recreation shall be] board.~~

~~(3) The division is the parks and recreation authority for the state [of Utah, shall assume all of the functions, powers, duties, rights and responsibilities of the Utah State Park and Recreation Commission except those which are delegated to the Board of Parks and Recreation by this act, and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law].~~

Section 12. Section **79-4-202**, which is renumbered from Section 63-11-18 is renumbered and amended to read:

[63-11-18]. 79-4-202. Director -- Qualifications -- Duties.

~~(1) The director [shall be] is the executive and administrative head of the [Division of Parks and Recreation and shall have demonstrated] division.~~

(2) The director shall demonstrate:

(a) executive ability; and

(b) actual experience and training in the conduct of park and recreational systems involving both physical development and program.

~~[It shall be the duty of such director to]~~

(3) The director shall:

(a) enforce the policies and rules [and regulations] of the board; and [to]

(b) perform [such other] the duties [as are] necessary [for the proper care and maintenance of] to:

(i) properly care for and maintain any property under the jurisdiction of the division; and [for the purpose of carrying out the provisions of this act.]

(ii) carry out this chapter.

(4) The director shall [have the responsibility for: acquisition, planning, protection, development, operation, use, and maintenance of] acquire, plan, protect, develop, operate, use, and maintain park area and facilities in [such manner as may be established by] accordance with the policies and rules [and regulations] of the board.

Section 13. Section **79-4-203**, which is renumbered from Section 63-11-17 is renumbered and amended to read:

[63-11-17]. 79-4-203. Powers and duties of division.

~~[(1)(a) The board may make rules:]~~

496 ~~[(i) governing the use of the state park system;]~~

497 ~~[(ii) to protect state parks and their natural and cultural resources from misuse or~~
498 ~~damage, including watersheds, plants, wildlife, and park amenities; and]~~

499 ~~[(iii) to provide for public safety and preserve the peace within state parks.]~~

500 ~~[(b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules~~
501 ~~that:]~~

502 ~~[(i) close or partially close state parks; or]~~

503 ~~[(ii) establish use or access restrictions within state parks.]~~

504 ~~[(c) Rules made under Subsection (1) may not have the effect of preventing the transfer~~
505 ~~of livestock along a livestock highway established in accordance with Section 72-3-112.]~~

506 (1) As used in this section, "real property" includes land under water, upland, and all
507 other property commonly or legally defined as real property.

508 (2) The Division of Wildlife Resources shall retain the power and jurisdiction
509 conferred upon it by law within state parks and on property controlled by the Division of Parks
510 and Recreation with reference to fish and game.

511 (3) The ~~[Division of Parks and Recreation]~~ division shall permit multiple use of state
512 parks and property controlled by it for purposes such as grazing, fishing ~~[and]~~, hunting, mining,
513 and the development and utilization of water and other natural resources.

514 (4) (a) The division may acquire real and personal property in the name of the state by
515 all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange,
516 or otherwise, subject to the approval of the executive director and the governor.

517 ~~[(b) As used in this section, "real property" includes land under water, upland, and all~~
518 ~~other property commonly or legally defined as real property.]~~

519 ~~[(c)]~~ (b) In acquiring any real or personal property, the credit of the state may not be
520 pledged without the consent of the Legislature.

521 (5) (a) Before acquiring any real property, the division shall notify the county
522 legislative body of the county where the property is situated of its intention to acquire the
523 property.

524 (b) If the county legislative body requests a hearing within ten days of receipt of the
525 notice, the ~~[board]~~ division shall hold a public hearing in the county concerning the matter.

526 (6) Acceptance of gifts or devises of land or other property ~~[shall be]~~ is at the

discretion of the division, subject to the approval of the executive director ~~[of the Department of Natural Resources]~~ and the governor.

(7) ~~[Acquisition of]~~ The division shall acquire property by eminent domain ~~[shall be]~~ in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The ~~[Division of Parks and Recreation]~~ division may make charges for special services and use of facilities, the income from which ~~[shall be]~~ is available for park and recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

~~[(c) The board shall adopt appropriate rules governing the collection of charges under this Subsection (8).]~~

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section ~~[63-11-67]~~ 79-4-404.

Section 14. Section **79-4-204**, which is renumbered from Section 63-11-19 is renumbered and amended to read:

~~[63-11-19].~~ **79-4-204. Division authorized to enter into contracts and agreements.**

(1) The division, with the approval of the executive director ~~[of natural resources]~~ and the governor, ~~[is authorized to]~~ may enter into contracts and agreements with the ~~[government of the]~~ United States~~[-, or any duly authorized representative or]~~, a United States agency, ~~[thereof, or with]~~ any other department or agency of the state ~~[of Utah and]~~, semipublic organizations, and with private individuals ~~[for the purposes of causing]~~ to:

(a) improve and maintain state parks and recreational grounds and the areas administered by the division ~~[to be improved and maintained and for any other lawful purpose]~~

and for those purposes it may contract to];

(b) secure labor, quarters, materials, services, or facilities [thereof] according to procedures established by the [Department] Division of Finance.

(2) All departments, agencies, officers, and employees of the state [are authorized and directed to] shall give to the division [such] the consultation and assistance [as] that the division may reasonably request.

Section 15. Section **79-4-205**, which is renumbered from Section 63-11-20 is renumbered and amended to read:

[63-11-20]. 79-4-205. Highways within state parks.

The [Division of Parks and Recreation] division has jurisdiction over and responsibility for service roads, parking areas, campground loops, and related facilities within state parks.

Section 16. Section **79-4-206**, which is renumbered from Section 63-11-68 is renumbered and amended to read:

[63-11-68]. 79-4-206. Support of a nonprofit corporation or foundation.

The division may provide administrative support to a nonprofit corporation or foundation that assists the board and the division in attaining the objectives outlined in the strategic or operational plan.

Section 17. Section **79-4-301**, which is renumbered from Section 63-11-12 is renumbered and amended to read:

Part 3. Board Creation and Duties

[63-11-12]. 79-4-301. Board of Parks and Recreation -- Creation -- Functions.

(1) There is created within the [Department of Natural Resources] department a Board of Parks and Recreation [which, except as otherwise provided in this act, shall assume all of the policy-making functions, powers, duties, rights and responsibilities of the Utah State Park and Recreation Commission, together with all functions, powers, duties, rights and responsibilities granted to the Board of Parks and Recreation by this act. The Board of Parks and Recreation shall be].

(2) The board is the policy-making body of the [Division of Parks and Recreation. Except as otherwise provided in this act, whenever reference is made in Title 63, or any other provision of law, to the Utah State Park and Recreation Commission, it shall be construed as referring to the Board of Parks and Recreation where such reference pertains to policy-making

functions, powers, duties, rights and responsibilities; but in all other instances such reference shall be construed as referring to the Division of Parks and Recreation] division.

Section 18. Section **79-4-302**, which is renumbered from Section 63-11-14 is renumbered and amended to read:

[63-11-14]. 79-4-302. Board of Parks and Recreation -- Appointment and terms of members -- Expenses.

(1) (a) The [~~Board of Parks and Recreation shall be~~] board is composed of nine members appointed by the governor, with the consent of the Senate, to four-year terms.

(b) [~~The~~] In addition to the requirements of Section 79-2-203, the governor shall:

(i) appoint one member from each judicial district and one member from the public at large;

(ii) ensure that not more than five members are from the same political party; and

(iii) appoint persons who have an understanding of and demonstrated interest in parks and recreation.

(c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately [~~1/2~~] half of the board is appointed every two years.

(2) When vacancies occur because of death, resignation, or other cause, the governor, with the consent of the Senate, shall:

(a) appoint a person to complete the unexpired term of the person whose office was vacated; and

(b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.

(3) The [~~Board of Parks and Recreation~~] board shall appoint its chair from its membership.

(4) (a) [~~Members shall~~] A member may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the member's service.

Section 19. Section **79-4-303**, which is renumbered from Section 63-11-16 is renumbered and amended to read:

[63-11-16]. 79-4-303. Board of Parks and Recreation -- Meetings -- Quorum.

(1) The ~~[Board of Parks and Recreation]~~ board shall meet at least once every quarter, but special meetings may be held by call of the chairman or at the request of two members of the board.

(2) Four members of the board shall constitute a quorum for the transaction of business.

Section 20. Section **79-4-304** is enacted to read:

79-4-304. Board power and duties.

(1) (a) The board may make rules:

(i) governing the use of the state park system;

(ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and

(iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules that:

(i) close or partially close state parks; or

(ii) establish use or access restrictions within state parks.

(c) Rules made under Subsection (1) may not have the effect of preventing the transfer of livestock along a livestock highway established in accordance with Section 72-3-112.

(2) The board shall adopt appropriate rules governing the collection of charges under Subsection 79-4-203(8).

Section 21. Section **79-4-305**, which is renumbered from Section 63-11-13 is renumbered and amended to read:

[63-11-13]. 79-4-305. Legislative intent -- Long-range plans.

~~[It is the intent of the Legislature that the Board of Parks and Recreation]~~ The board shall formulate and cause to be put into execution by the department through the director of the ~~[Division of Parks and Recreation]~~ division a long-range, comprehensive plan and program for the acquisition, planning, protection, operation, maintenance, development, and wise use of areas of scenic beauty, recreational utility, or historic, archaeological, or scientific interest, to

the end that the health, happiness, recreational opportunities, and wholesome enjoyment of life of the people may be further encouraged within the general policies of the ~~[Department of Natural Resources]~~ department.

Section 22. Section **79-4-401**, which is renumbered from Section 63-11-21 is renumbered and amended to read:

Part 4. Finances

~~[63-11-21].~~ 79-4-401. Funds to be appropriated -- Boating account expenses.

(1) The Legislature shall appropriate such funds as from time to time necessary to carry out the purposes of this ~~[act to the Division of Parks and Recreation]~~ chapter to the division to be used by the division in the administration of the powers and duties and in carrying out the objective and purposes prescribed ~~[herein]~~ by this chapter.

(2) It is the intent of the Legislature that all departmental operating and administrative expenses for the administration of the boating account of the ~~[Division of Parks and Recreation]~~ division shall be charged against that account.

Section 23. Section **79-4-402**, which is renumbered from Section 63-11-66 is renumbered and amended to read:

~~[63-11-66].~~ 79-4-402. State Park Fees Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:

(i) all charges allowed under ~~[Subsection 63-11-17(8)]~~ Section 79-4-203;

(ii) proceeds from the sale or disposal of buffalo under Subsection ~~[63-11-19.2]~~ 79-4-1001(2)(b); and

(iii) civil damages collected under Section 76-6-206.2.

(b) The account shall not include revenue the division receives under ~~[Sections 63-11-19.5, 63-11-19.6,]~~ Section 79-4-403 and Subsection ~~[63-11-19.2]~~ 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section ~~[63-11-17]~~ 79-4-203.

Section 24. Section **79-4-403**, which is renumbered from Section 63-11-19.5 is renumbered and amended to read:

**[63-11-19.5]. 79-4-403. User fees for golf -- Wasatch Mountain, Palisades,
and Jordan River State Parks.**

(1) The following user fees are assessed in the following parks for playing nine holes of golf:

(a) \$1.50 at Wasatch Mountain State Park;

(b) \$1.50 at Palisades State Park; and

~~[(c) 75 cents at Jordan River State Park.]~~

(c) \$1.50 at Green River State Park.

(2) The fee in Subsection (1) is:

(a) in addition to the fee set by the ~~[Board of Parks and Recreation]~~ board; and

(b) to be used at the park where the money is collected for:

(i) the upgrade or development of facilities; or

(ii) the purchase of golf course operation and maintenance equipment.

(3) The revenue from the fees established in Subsection (1) ~~[shall be]~~ are nonlapsing.

Section 25. Section **79-4-404**, which is renumbered from Section 63-11-67 is renumbered and amended to read:

**~~[63-11-67]. 79-4-404. Zion National Park Support Programs Restricted
Account -- Creation -- Funding -- Distribution of funds.~~**

(1) There is created within the General Fund the Zion National Park Support Programs Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; or

(c) donations or grants from public or private entities.

(3) The Legislature shall appropriate funds in the account to the division.

(4) The board may expend up to 10% of the monies appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).

(5) The division shall distribute contributions to one or more organizations that:

(a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(b) operate under a written agreement with the National Park Service to provide

interpretive, educational, and research activities for the benefit of Zion National Park;

(c) produce and distribute educational and promotional materials on Zion National Park;

(d) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(e) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(6) (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on Zion National Park;

(ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (5).

Section 26. Section **79-4-501**, which is renumbered from Section 63-11-17.2 is renumbered and amended to read:

Part 5. Enforcement

[63-11-17.2]. 79-4-501. Peace officer authority of park rangers.

(1) The ~~[Division of Parks and Recreation]~~ division has the duty to:

(a) protect state parks and park property from misuse or damage; and ~~[to]~~

(b) preserve the peace within state parks.

(2) Employees of the ~~[Division of Parks and Recreation]~~ division who are POST certified peace officers and who are designated as park rangers by the division director, are law enforcement officers under Section 53-13-103~~5~~ and have all the powers of law enforcement officers in the state, with the exception of the power to serve civil process.

(3) The ~~[Division of Parks and Recreation]~~ division has the authority to deputize persons who are peace officers or special function officers to assist park rangers on a seasonal temporary basis.

Section 27. Section **79-4-502**, which is renumbered from Section 63-11-17.3 is renumbered and amended to read:

~~[63-11-17.3].~~ 79-4-502. Violation of law or board regulations -- Misdemeanor.

Any person who violates Section ~~[63-11-17]~~ 79-4-203 or any of the rules of the board adopted pursuant to this chapter is guilty of a class B misdemeanor.

Section 28. Section **79-4-601**, which is renumbered from Section 63-11-3 is renumbered and amended to read:

Part 6. State Parks

~~[63-11-3].~~ 79-4-601. "This is the Place Monument," Camp Floyd, old statehouse -- Supervision and control.

~~[The Division of Parks and Recreation shall have the power and it shall be its duty to take administrative and supervisory control over]~~

(1) The division shall administer and supervise the following historical monuments:
[namely;]

(a) "This is the Place Monument" Site[;];

(b) Camp Floyd; and

(c) the old statehouse at Fillmore.

(2) The division may make expenditures for [such] maintenance and administration from funds;

(a) made available by appropriation; or [from other funds which]

(b) that are available to the division.

Section 29. Section **79-4-602**, which is renumbered from Section 63-11-1 is renumbered and amended to read:

~~[63-11-1].~~ 79-4-602. Designation of old Utah state prison site as state park.

(1) The old Utah state prison site, ~~[as hereinafter particularly described, is set apart and] described in Subsection (2), is designated as a state park[, this designation to be effective from and after the time said property is vacated for prison uses by transfer of the prisoners and~~

775 ~~prison facilities to the new state prison at the Point of the Mountain prison site in Salt Lake~~
 776 ~~County, Utah].~~

777 (2) The property ~~[so]~~ designated ~~[and set apart]~~ as a state park in Subsection (1) is
 778 ~~[particularly]~~ described as follows:

779 Beginning at the northwest corner of Section 21, T. 1 S., R. 1 E., S. L. B. & M. thence
 780 N. 89 degrees 58 minutes 44 1/2 seconds E., along the north line of said section 2643.38 feet,
 781 to the north 1/4 corner of said section: thence S. 0 degrees 06 minutes 37 seconds W., 179.39
 782 feet to the south side of east 21st South Street: thence S. 89 degrees 52 minutes 41 seconds E.,
 783 along said south side of east 21st South Street, 409.91 feet to the northeast fence corner of the
 784 prison property: thence S. 0 degrees 17 minutes 36 seconds W., along the east fence line of said
 785 prison property, 1861.00 feet to the north bank of Parley's Canyon Creek Wash: thence N. 63
 786 degrees 40 minutes W., along a fence line on the north bank of said wash, 63.59 feet; thence S.
 787 10 degrees 08 minutes E., 87.97 feet along a fence and S. 12 degrees 39 minutes W., 29.00 feet
 788 along a fence, to a fence corner on the south bank of said wash: thence S. 18 degrees 09
 789 minutes W., along a fence line, 325.84 feet, to the center line of the D & RG RR tracks through
 790 the prison property: thence S. 18 degrees 36 minutes W., along a fence line 225.78 feet to the
 791 southeast corner of said prison property: thence N. 89 degrees 47 minutes 58 seconds W., along
 792 the north boundary line of the Highland Park Subdivision, said line being the east and west
 793 center line through said section, 2830.90 feet, to the west 1/4 corner of said section: thence N.
 794 0 degrees 14 minutes 46 seconds E., along the west line of said section 2639.78 feet, to the
 795 point of beginning.

796 (3) This tract of land contains approximately 188.66 acres; less state highway and areas
 797 north of highway, 4.84 acres; yielding a net of 183.82 acres.

798 Section 30. Section **79-4-603**, which is renumbered from Section 63-11-54.5 is
 799 renumbered and amended to read:

800 ~~[63-11-54.5].~~ **79-4-603. Mountain Meadow Massacre site included within**
 801 **state park system.**

802 (1) The Mountain Meadow Massacre site and monument ~~[shall be]~~ is included within
 803 the state park system.

804 (2) The ~~[Division of Parks and Recreation]~~ division may:

805 (a) enter into an agreement with the United States Forest Service for the use of land at

806 the site as a state park; and

807 (b) receive donations of land[;] or facilities [~~or both~~] at the site for inclusion within the
808 state park.

809 Section 31. Section **79-4-604**, which is renumbered from Section 63-11-54 is
810 renumbered and amended to read:

811 ~~[63-11-54].~~ **79-4-604. Iron Mission Historical Monument -- Acceptance of gifts**
812 **from Iron Mission Park Corporation.**

813 The [~~Board of Parks and Recreation, an agency of the state of Utah, is directed to~~]
814 board shall accept on behalf of the state [~~of Utah~~] the Gronway Parry collection of horse-drawn
815 vehicles, horses, harnesses, figures, costumes, and horse-drawn machinery of the pioneer era,
816 the Melling log cabin, the Osborne blacksmith collection, and a metal exhibit building, all
817 being gifts to the state from the Iron Mission Park Nonprofit Corporation.

818 Section 32. Section **79-4-605**, which is renumbered from Section 63-11-55 is
819 renumbered and amended to read:

820 ~~[63-11-55].~~ **79-4-605. Iron Mission Historical Monument -- Acquisition of**
821 **property.**

822 The [~~Division of Parks and Recreation is authorized to~~] division may:

823 (1) acquire, construct, maintain, and operate any land areas, objects, or structures as
824 necessary to preserve, protect, display, and enhance [~~these~~];

825 (a) the gifts described in Section 79-4-604; and

826 (b) other historical objects or collections donated, loaned, or otherwise acquired[~~, now~~
827 ~~or in the future,~~] that appropriately contribute to the pioneer heritage of Utah; and [~~to~~
828 ~~accomplish this either~~]

829 (c) acquire, directly or through others, by purchase, contract, lease, permit, donations,
830 or otherwise, all real or personal property, rights of way, approach roads, parking and other
831 areas, structures, facilities and services [~~which~~] that the division and board may deem
832 necessary or desirable [~~therefor~~] to accomplish Subsection (1).

833 Section 33. Section **79-4-701**, which is renumbered from Section 63-11-3.1 is
834 renumbered and amended to read:

835 **Part 7. This is the Place Monument**

836 ~~[63-11-3.1].~~ **79-4-701. Definitions.**

837 As used in [~~Sections 63-11-3.1 through 63-11-3.3~~] this part:

838 (1) "Board of trustees" means the board of trustees of This is the Place Foundation.

839 [~~(2) "Division" means the Division of Parks and Recreation.~~]

840 [~~(3)~~] (2) "Foundation" means This is the Place Foundation, a private nonprofit

841 corporation formed pursuant to Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

842 (3) "Member" means a member of the board of trustees.

843 (4) "Monument" means This is the Place Monument at This is the Place State Park.

844 (5) "Park" means This is the Place State Park, property owned by the state [~~of Utah~~]

845 located at 2601 East Sunnyside Avenue, Salt Lake City.

846 Section 34. Section **79-4-702**, which is renumbered from Section 63-11-3.2 is

847 renumbered and amended to read:

848 **[~~63-11-3.2~~]. 79-4-702. Agreement to manage This is the Place State Park --**

849 **Management fee.**

850 (1) In recognition of the need for private funds to continue the expansion and

851 improvement of Old Deseret Village, a living history museum at [~~This is the Place State Park~~]

852 the park, and the preference of donors to contribute to nonprofit organizations rather than

853 government entities, the [~~Division of Parks and Recreation is authorized to~~] division may make

854 an agreement with [~~This is the Place Foundation~~] the foundation to manage, develop, and

855 promote [~~This is the Place State Park~~] the park.

856 (2) The division may pay a management fee to the foundation.

857 (3) The division may not require the foundation to remit to the division any portion of

858 the income generated from park operations.

859 Section 35. Section **79-4-703**, which is renumbered from Section 63-11-3.3 is

860 renumbered and amended to read:

861 **[~~63-11-3.3~~]. 79-4-703. Terms of agreement.**

862 Any agreement made pursuant to Section [~~63-11-3.2~~] 79-4-702 shall include the

863 following terms:

864 (1) The foundation shall transfer to the state:

865 (a) title to any real property acquired by the foundation, upon completion of payment,

866 if any, for the property by the foundation; and

867 (b) ownership of any artifacts or collections acquired by the foundation.

(2) No fee may be charged to visit the monument.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a [board] member may not receive [no] compensation or financial benefit, directly or indirectly, as a result of the member's service on the board of trustees.

(b) A [board] member may receive per diem and expenses incurred in the performance of the [board] member's duties at the rates established by the board of trustees.

(c) A [board] member may deal or contract with the foundation, provided that:

(i) no person or entity is paid any fee, salary, rent, or other payment of any kind in excess of the fair market value for the service rendered, goods furnished, or facilities or equipment rented; and

(ii) at a meeting of the board of trustees or subcommittee of the board of trustees having authority to authorize or confirm the contract or transaction:

(A) a quorum of the board of trustees or subcommittee is present;

(B) the interest of the [board] member is disclosed;

(C) a majority of the quorum votes to approve the contract or transaction; and

(D) in determining a majority under Subsection (3)(c)(ii)(C), the vote of any [board] member having an interest in the contract or transaction is not counted.

(4) The foundation shall obtain an annual audit prepared:

(a) by an independent public accounting firm~~[- The audit shall be prepared]; and~~

(b) in accordance with generally accepted accounting standards.

Section 36. Section **79-4-704**, which is renumbered from Section 63-11-10.2 is renumbered and amended to read:

~~[63-11-10.2].~~ 79-4-704. Use of waters from Wagner Spring.

The ~~[Division of Parks and Recreation is authorized to]~~ division may use the waters from ~~[that certain spring, known as]~~ the Wagner Spring~~[-]~~ located on the park ~~[area,]~~ for any purposes connected with the upkeep and maintenance of the park, including the ~~["This is the Place Monument" within said park]~~ monument.

Section 37. Section **79-4-705**, which is renumbered from Section 63-11-10.3 is renumbered and amended to read:

~~[63-11-10.3].~~ 79-4-705. Agreement with public utility companies as to easements or rights of way across park.

The ~~[Division of Parks and Recreation is authorized to]~~ division may enter into agreements with public utility companies for the granting and maintenance of easements or rights of way across ~~[said]~~ the park.

Section 38. Section **79-4-801** is enacted to read:

Part 8. Riverway Enhancement

79-4-801. Definitions.

As used in this part:

(1) (a) "Flood plains" means the lands along the course of the river or stream:

(i) that are periodically flooded ; and

(ii) for which flood control protective works would normally be provided or desirable.

(b) "Flood plain" for the Jordan River means the flood plain as determined by the flood in 1952.

(2) "Advisory council" means the Riverway Enhancement Advisory Council.

Section 39. Section **79-4-802**, which is renumbered from Section 63-11-17.5 is renumbered and amended to read:

~~[63-11-17.5].~~ **79-4-802. Powers and duties of board and division concerning areas along rivers and streams -- Definitions -- Limitations on construction.**

~~[(1) Upon the transfer to the Division of Parks and Recreation of the properties, rights, interests, powers, functions, duties, and liabilities of the Provo-Jordan River Parkway Authority as provided in Section 63-11-16.5, the Division and Board of Parks and Recreation shall have the same powers, functions, and duties as previously covered by this chapter but in addition]~~

(1) (a) There is created within the division a riverway enhancement program.

(b) The division shall establish and coordinate programs for the development of recreational areas, water conservation, flood control, and wildlife conservation along those rivers and streams that are:

(i) impacted by high density populations; or [that are]

(ii) prone to flooding. [In this connection the Division of Parks and Recreation shall provide for:]

(2) To accomplish Subsection (1), the division shall:

(a) [The development of those] develop the areas along rivers or streams as the division determines to be suitable and desirable for recreation usage[-];

(b) ~~[The restoration and preservation of]~~ restore and preserve the points of historical interest along rivers and streams[-];

(c) ~~[The development of those]~~ develop the areas along rivers or streams that the division, in consultation with the appropriate county executive, determines to be suitable and desirable for flood control[-];

(d) ~~[The development of those]~~ develop the areas along rivers or streams that the division determines to be suitable and desirable for reclamation[-];

(e) ~~[The development of those]~~ develop the areas along rivers or streams that the division determines to be suitable and desirable for wildlife management[-];

(f) ~~[The development of those]~~ develop the areas along rivers or streams that the division determines to be suitable and desirable for water conservation[-]; and

(g) ~~[The regulation]~~ regulate and control ~~[of]~~ the types of development other than those ~~[set forth above in this Subsection (1)]~~ described in Subsections (1) and (2) along rivers and streams designated by the division within their present flood plains[-];

~~[(2) As used in this section:]~~

~~[(a) "Flood plains" means the lands along the course of the river or stream which are periodically flooded and for which flood control protective works would normally be provided or desirable. The 1952 flood is used as a present flood plain criterion for the Jordan River.]~~

~~[(b) "Division" means the Division of Parks and Recreation.]~~

~~[(c) "Advisory council" means the Riverway Enhancement Advisory Council.]~~

(3) The division may not:

(a) permit the construction of any structures, subdivisions, or other developments on or along rivers or streams, or within their present flood plains, ~~[which]~~ that are in violation of any ordinances of any political subdivision having jurisdiction in that area ~~[but may in respect to this development]; and~~

(b) administer water rights.

(4) (a) The division may impose requirements in excess of and in addition to ~~[those]~~ the requirements provided in ~~[those ordinances]~~ an ordinance described in Subsection (3)(a).

(b) The more restrictive of the requirements imposed by the political subdivision or by the division are applicable. ~~[The division may not be authorized to administer water rights.]~~

Section 40. Section ~~79-4-803~~, which is renumbered from Section 63-11-17.7 is

961 renumbered and amended to read:

962 ~~[63-11-17.7].~~ **79-4-803. Riverway Enhancement Advisory Council created**
963 **-- Composition -- Terms -- Vacancies -- Chair -- Quorum -- Council payment.**

964 (1) There is created within the ~~[Division of Parks and Recreation]~~ division the
965 Riverway Enhancement Advisory Council for the purpose of advising the ~~[Division and the~~
966 ~~Board of Parks and Recreation]~~ division and board regarding the riverway enhancement
967 program.

968 (2) The advisory council consists of 11 members appointed by the ~~[Board of Parks and~~
969 ~~Recreation]~~ board as follows:

970 (a) ~~[One]~~ one elected municipal officer ~~[shall be]~~ appointed from each of the following
971 planning districts:

972 (i) Bear River [=], which includes Box Elder, Cache, and Rich Counties;

973 (ii) Five County [=], which includes Beaver, Garfield, Iron, Kane, and Washington
974 Counties;

975 (iii) Mountainland [=], which includes Summit, Utah, and Wasatch Counties;

976 (iv) Six County [=], which includes Juab, Millard, Piute, Sanpete, Sevier, and Wayne
977 Counties;

978 (v) Southeast [=], which includes Carbon, Emery, Grand, and San Juan Counties;

979 (vi) Uintah Basin [=], which includes Daggett, Duchesne, and Uintah Counties; and

980 (vii) Wasatch Front [=], which includes Davis, Morgan, Salt Lake, Tooele, and Weber
981 Counties[-]; and

982 (b) ~~[Four]~~ four members ~~[shall be]~~ appointed from among the residents of cities and
983 towns in the state.

984 (3) (a) Except as required by Subsection (2)(b), each member shall be appointed for a
985 four-year term of office.

986 (b) Notwithstanding the requirements of Subsection (3)(a), the ~~[Board of Parks and~~
987 ~~Recreation]~~ board shall, at the time of appointment or reappointment, adjust the length of terms
988 to ensure that the terms of advisory council members are staggered so that approximately half
989 of the advisory council is appointed every two years.

990 (4) (a) Any vacancy occurring in the advisory council shall be filled by a person having
991 the same qualifications as the person whose office has been vacated.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The advisory council shall appoint a chair from its membership, who shall serve for a term of office of two years but may be reelected for subsequent terms.

(b) Six members of the council constitutes a quorum.

(6) (a) ~~[Members shall]~~ A member may not receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the member's service.

Section 41. Section **79-4-804**, which is renumbered from Section 63-11-17.8 is renumbered and amended to read:

~~[63-11-17.8].~~ 79-4-804. Riverway enhancement grants -- Matching funds requirements -- Rules.

(1) (a) The ~~[Division of Parks and Recreation]~~ division may give grants to local governments and state agencies for riverway enhancement projects with funds appropriated by the Legislature for that purpose.

(b) Each grant recipient must provide matching funds having a value that is equal to or greater than the grant funds received. ~~[However, the Board of Parks and Recreation]~~

(c) The board may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The ~~[Board of Parks and Recreation]~~ board shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for riverway enhancement projects; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the ~~[Riverway Enhancement Advisory Council]~~ advisory council and the division.

(3) Rules for the awarding of grants for riverway enhancement projects shall provide that:

(a) each riverway enhancement project for which grant funds are awarded must be along a river or stream that is impacted by high density populations or prone to flooding; and

(b) riverway enhancement proposals that include a plan to provide employment opportunities for youth, including at-risk youth[;] as defined in Section ~~[63-11a-501]~~ 79-5-501, in the development of the riverway enhancement project ~~[shall be]~~ is encouraged.

Section 42. Section **79-4-901**, which is renumbered from Section 63-11-63 is renumbered and amended to read:

Part 9. Pioneer Heritage

~~[63-11-63].~~ **79-4-901. Pioneer heritage of Utah -- Acquisitions and operations by Division of Parks and Recreation.**

(1) The ~~[Division of Parks and Recreation is authorized to]~~ division may acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance any gifts and other historical objects or collections donated, loaned, or otherwise acquired~~[, now or in the future,]~~ that appropriately contribute to the pioneer heritage of Utah. ~~[The]~~

(2) To accomplish Subsection (1), the division may~~[, in order to accomplish this,]~~ directly or through others, by purchase, contract, lease, permit, donation, or otherwise, secure all real or personal property, rights of way, approach roads, parking and other areas, structures, facilities, and services ~~[which]~~ that the division and board may deem necessary or desirable ~~[therefor]~~to contribute to the pioneer heritage of Utah.

Section 43. Section **79-4-1001**, which is renumbered from Section 63-11-19.2 is renumbered and amended to read:

Part 10. Miscellaneous

~~[63-11-19.2].~~ **79-4-1001. Purchase, trade, sale, or disposal of buffalo -- Proceeds.**

(1) In accordance with a plan, approved by the ~~[Board of Parks and Recreation, for the management of]~~ board, to manage buffalo herds on Antelope Island, the ~~[Division of Parks and Recreation is authorized to]~~ division may purchase, trade, sell, or dispose of buffalo obtained from Antelope Island through:

(a) competitive bidding; or ~~[any other]~~

(b) a means as established by rule.

1054 (2) Proceeds received from the sale or disposal of buffalo under this section shall be
1055 deposited as follows:

1056 (a) the first \$75,000 shall accrue to the [~~Division of Parks and Recreation~~] division for
1057 the management of Antelope Island buffalo herds as nonlapsing dedicated credits; and

1058 (b) proceeds in excess of \$75,000 shall be deposited in the State Park Fees Restricted
1059 Account created under Section [~~63-11-66~~] 79-4-402.

1060 Section 44. **Repealer.**

1061 This bill repeals:

1062 Section **63-11-16.5, Provo-Jordan River Parkway Authority abolished -- Transfer**
1063 **to Division of Parks and Recreation -- Riverway Enhancement Program created.**

1064 Section **63-11-19.1, Contracts for purchase of lands for addition to Wasatch**
1065 **Mountain State Park -- Tax levy for payment of principal and interest -- Separability.**

1066 Section **63-11-19.6, User fee for golf -- Green River State Park.**

1067 Section **63-11-33, Pioneer Monument State Park -- Conveyance by University of**
1068 **Utah of additional land.**

1069 Section **63-11-34, Pioneer Monument State Park -- Area to be conveyed.**

1070 Section **63-11-35, Pioneer Monument State Park -- Date of conveyance.**

1071 Section **63-11-36, Bonneville Scenic Drive -- Location of right of way.**

1072 Section **63-11-56, State museum of Indian history and culture -- Acquisition of**
1073 **property.**

1074 Section **63-11-62, Frontier history and culture -- State monument -- Title to land.**